

## REMARKS:

The Office Action dated April 29, 2009, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claims 1-12 are currently pending in this application, with claims 1, 5, and 9 being independent. Claims 1, 2, 5, and 9-12 are hereby amended. Support for the amendments to claims 1, 2, 5, and 9, which clarify that the garment parts are tubular parts, may be found, inter alia, at paragraphs [0029], [0032], and [0036] of Applicants' specification, as well as in FIGS. 9-11. Support for the amendments to claims 9-12, which relate to a computer program product, comprising a computer readable medium having a computer readable program code embodied therein adapted to be executed by processor, may be found, inter alia, at paragraphs [0023] through [0024] of Applicants' specification, as well as in FIGS. 1 and 3. No new matter is added by these amendments.

### Allowable subject matter

Applicants appreciate the Examiner's acknowledgment of allowable subject matter recited in claims 3, 7, and 11, and that these claims would be allowable if rewritten in independent form.

### Objections to the Specification

The April 29 Action objected to a sentence in paragraph [0039] of Applicants' specification that states "This processing is a model a process in which a garment which is expanded by putting a torso and arm therethrough when wearing the knit garment is caused to shrink to fit with the human body." This paragraph has been amended to clarify that the disclosed processing models a process in which a garment, which is expanded by putting a torso and arm therethrough when wearing the knit garment, is caused to shrink to fit with the human body.

The April 29 Action also objected to a sentence in paragraph [0041] of Applicants' specification that states "Data of a yarn as a material of the garment is stored for each stitch or each group of stitches, and the detail of the yarn data is applied by a yarn

model" (emphasis added). The April 29 Action suggests that the sentence should state that "the yarn data is applied to a yarn model." Applicants respectfully disagree and submit that the current phrasing is accurate. As disclosed, for example, at paragraph [0043] of Applicant's specification, a yarn model uses the yarn data to generate a three dimensional image of each stitch according to the yarn data. That is, the yarn data is applied by the yarn model to create the three dimensional image of the garment.

In view of the above amendments and clarifications, Applicants respectfully request that these objections be withdrawn.

#### **Rejections under 35 U.S.C. § 101**

Claims 9-12 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse the rejection and submit that claims 9-12, as amended, are directed to a computer program product, comprising a computer readable medium, which is patentable subject matter.

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. MPEP § 2106.01. See also In re van Beek, 2008-2033 (BPAI Jan. 16, 2009) ("It has been the practice for a number of years that a "Beauregard Claim" of this nature be considered statutory at the USPTO as a product claim. (MPEP 2106.01, I). Though not finally adjudicated, this practice is not inconsistent with In re Nuijten, 500 F.3d 1346 (Fed. Cir. 2007). The claims at issue recite a digital file stored on a computer readable medium. This has been found statutory under In re Lowry, 32 F.3d 1579.).

The April 29 Action alleges that the specification fails to teach, disclose, or provide a written description of a computer readable storage media. Applicants respectfully disagree. For example, at page 10, the specification discloses a wearing simulation device including at least a disk drive and a general purpose memory. Furthermore, at paragraphs [0027] through [0028], it is disclosed that the simulation program (e.g., a program comprising the program functions illustrated in FIGS. 3 and 4) is integrated with the wearing simulation device illustrated in FIG. 1 (including at least a

disk drive and general purpose memory). The use of disk drives and general purpose memories to store computer readable program code is well known in the art, and a person having ordinary skill in the art would reasonably believe that the applicant was in possession of the invention recited in amended claim 9, and would also be enabled to practice the invention as claimed.

Because claims 9-12, as amended, are directed to statutory subject matter and are adequately supported by the specification, Applicants respectfully request that this rejection under 35 U.S.C. § 101 be withdrawn.

#### **Rejections under Non-Statutory Obviousness-Type Double Patenting**

Claims 1, 2, 3, 5, 6, 8, 9, 10, and 12 stand rejected under the judicial doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Pat. No. 7,379,786, commonly owned with this application. In order to overcome this rejection, Applicants file with this amendment an appropriate terminal disclaimer in compliance with 37 CFR 1.321(c). Accordingly, Applicants respectfully request that this rejection be withdrawn.

#### **Rejections under 35 U.S.C. § 102**

Claims 1, 2, 4, 5, 6, 8, 9, 10, and 12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,968,297 to Ziakovic et al. ("Ziakovic"). Applicants respectfully traverse the rejection and submit that claims 1, 2, 4, 5, 6, 8, 9, 10, and 12 recite subject matter that is neither disclosed nor suggested by Ziakovic.

Independent claims 1, 5, and 9, are not anticipated by Ziakovic because Ziakovic fails to disclose or even suggest all of the features recited in those claims. For example, Ziakovic at least fails to disclose the feature of these claims that includes a step of "matching each of the tubular parts of the knit garment with any of the plurality of axes, while keeping the parts tubular." The April 29 Action asserts that this feature is disclosed at Col. 7, Lines 6-12 of Ziakovic. Applicants respectfully disagree. Ziakovic merely discloses a relationship between pieces of a garment and the surface of the dummy. Specifically, Ziakovic discloses a first mapping (i.e., "bijection") between the

three dimensional surface of the dummy and a flattened surface of the dummy (col. 9, lines 1-12, and FIGS. 9B and 10), and a second mapping between the flattened surface of the dummy and the pieces of fabric (col. 9, lines 22-50, and FIGS. 10 and 11). Ziakovic does disclose any mapping between the pieces of fabric and axes of the dummy.

Furthermore, Ziakovic fails to disclose the feature of these claims that the matching occurs "while keeping the parts tubular, so as to make the each of the tubular parts surround said any of the plurality of axes." Throughout Ziakovic, the garment pieces are described and illustrated as two dimensional pieces of fabric. Ziakovic, col. 1 ll.21-24, col. 5 ll. 38-41, col. 7 ll. 17-22, col. 9 ll. 58-60, and FIGS. 1-7, 10, 20. Ziakovic does not disclose performing any of the processing while keeping garment pieces tubular, nor would it have been obvious to a person having ordinary skill in the art how to modify Ziakovic to perform this limitation.

Still further, Ziakovic fails to disclose the feature of these claims that each of the tubular parts is shrunk / expanded in a peripheral direction toward the matching axis. The April 29 Action asserts that this feature is disclosed generally by the process of relaxation described at columns 9 through 14 of Ziakovic. Applicants respectfully disagree. Ziakovic describes a three-dimensional displacement of triangles, based upon traction forces acting on the garment as well as a potential field constructed around the dummy. Ziakovic does not disclose that, during any portion of the relaxation process, the pieces of the garment are constrained to shrink or expand along a single dimension toward a corresponding axis.

The independent claims 1, 5, and 9 are not anticipated by Ziakovic at least because Ziakovic fails to disclose matching each of the tubular parts of the knit garment with any of the plurality of axes, while keeping the parts tubular, so as to make the each of the tubular parts surround said any of the plurality of axes and shrinking/expanding the temporarily positioned knit garment toward the axis matched with each of the tubular parts of the knit garment in a peripheral direction. Additionally, the dependent claims 2-4, 6-8, and 10-12 depend from claims 1, 5, and 9, respectively, and incorporate all of the limitations recited in the independent claims. Therefore, the dependent claims are also not anticipated by Ziakovic for at least this reason, in addition to the novel features

recited by these claims individually. In light of the above arguments, Applicants respectfully request that this rejection under 35 U.S.C. § 102(e) be withdrawn.

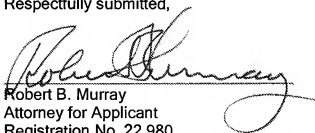
In view of the above, all objections and rejections have been sufficiently addressed, and reconsideration is requested. The Applicants submit that the application is now in condition for allowance and request that all pending claims be allowed and this application passed to issue.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02 2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

By



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